UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

WAYNE S. SMITH, Plaintiff, vs. STATE OF SOUTH DAKOTA; JASON GANT in his official capacity as Secretary of State of South Dakota; and MIKE MILSTEAD in his official capacity as Minnehaha County Sheriff, Defendant.	)	Civ. 11-4001 MOTION FOR SUMMARY JUDGMENT

Defendant Mike Milstead, by counsel of record, hereby moves the Court for summary judgment in his favor with respect to Plaintiff's claims herein. This Motion for Summary Judgment is based upon all records, files, pleadings and affidavits in this matter, all showing that Milstead is entitled to judgment as a matter of law pursuant to Rule 56 of the Federal Rules of Civil Procedure. In particular, Milstead refers the Court to his Affidavit dated August 29, 2011; Brief in Support of Motion for Summary Judgment; and Statement of Undisputed Material Facts, each of which are filed separately herewith.

Dated at Sioux Falls, South Dakota, this 31st day of August, 2011.

CADWELL SANFORD DEIBERT & GARRY LLP

By s/Douglas M. Deibert

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CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the Motion for Summary Judgment with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following counsel:

Bobbi J. Rank Bobbi.Rank@state.sd.us

The undersigned attorney hereby certifies that a true and correct copy of the foregoing Motion for Summary Judgment was mailed to:

Wayne S. Smith
132 South Dakota Avenue - Loft 307
Sioux Falls, SD 57104

by U.S. mail, postage prepaid this 31st day of August, 2011.

s/Douglas M. Deibert
Douglas M. Deibert